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THE NEWS OF THE COURTS

Discrepancy Found in Attorney J. A.  
Magoon's Accounts as  
Guardian.

A FEW WEEKS ago the First Cir-  
cuit Judge startled the community  
by stating from the bench that in  
his opinion Chinese administrators were  
not to be trusted and could not be de-  
pend upon for a faithful stewardship  
of dead men's estates. The case then  
at issue was the application of H. Sin  
Fook, to be appointed guardian of the  
property of Kan Yee, a minor, whose  
residence is in China. The startling an-  
nouncement was made when the final ac-  
counts of Ho Sun, guardian, were filed.  
Despite the statement that the guar-  
dian was lax in his vigilance in matters  
pertaining to the welfare of his ward's  
estate, the master's report, filed yester-  
day, shows that the guardian for seven  
years has been faithful to his trust, and  
that it was one of the most reputable  
meners the bar. Cecil Brown, who  
had for seven years prepared and pre-  
sented the accounts, which have in-  
creased, and show no losses. The matter  
of the application was brought before  
the Circuit Judge yesterday wherein the  
master's report was confirmed, the ac-  
counts of the guardian approved, and  
Ho Sun, the guardian, discharged. The  
application to have H. Sin Fook ap-  
pointed in his place was denied, and the  
appointment is yet hanging fire.

P. D. Kellett, Jr., the master, in his  
report says he has held several inter-  
views with the guardian.  
"While it is true that his method of  
loaning out the funds of this estate is  
open to criticism, there is also much to  
be said in his favor. He said he never  
sought this appointment, but only took  
it as an accommodation to his friend,  
the father of the minor, who is now in  
the Empire of China, and his son."  
The guardian stated he has felt some-  
timidity about taking securities upon  
real estate, the title to which might  
have been open to contest; neither did  
he wish to pay out heavy expenses in  
order to get none but first-class mort-  
gages.

"I believe that this guardian has  
acted in good faith in the management  
of his trust. He has filed his accounts  
regularly each year during the past seven  
years. The schedules of account were  
all, except the final account, prepared  
and presented to the court on the guar-  
dian's behalf by Cecil Brown, Esq., a  
reputable attorney of this court. The  
second, third, fourth, fifth and sixth ac-  
counts, although filed annually, were not  
taken up for disposition until March 26,  
1900, when they were approved by Judge  
Parry, who said he had noticed, but said  
nothing, about the method of making the  
loans.

"If the guardian's attention was only  
called to it by Mr. Brown, the attorney,  
I believe that he would have been prompt  
to discontinue what may now seem to  
be an irregular mode of making loans.  
But it has been an irregularity, if any,  
which has caused no loss to the estate,  
unless the court should hold that he  
ought to have done better in the matter  
of swelling the principal."

The master goes on to state that the  
principal of the estate seven years ago  
was \$1,432.50, and at present amounts to  
\$1,912, showing a gain of \$479.50 in that  
time, after paying out the usual admin-  
istration expenses.

"It is to be noticed that the elements  
of neglect and waste are quite absent in  
the guardian's administration of this  
matter in all probability he intended to  
go slow in the matter of loans, so that  
in case of loss he would have very little  
loss to repay to the estate."

RAE'S WILL ADMITTED.

In response to the dying wishes of Robert  
Gustave Rabe, who died at the Hon-  
olulu Sanitarium on December 7, the  
Circuit Judge yesterday ordered that let-  
ters testamentary be issued to William  
Mutch and Frederick G. Harrison, both of  
Chicago, Ill., S. A. Brothers' name, Otto  
Rabe, 42 years, cabinet-maker by trade;  
Emily Rabe, Hedwig Rabe; Agnes Rabe;  
Bertha Rabe.

"The deceased, upon his death, signed  
the following documents, which is his  
will, and in lieu of signing his name  
affixed an "X":

"Honolulu Sanitarium,  
"December 7, 1900.

"I, the undersigned, request Mr. W.  
Mutch and Mr. Fred. Harrison, both of  
Honolulu, to act together as administra-  
tors of my estate, this being made of  
my own free will, and in case of my  
death, as follows:

"To divide equally my estate to my re-  
lations, namely, one brother and four sis-  
ters, supposed to be at present in  
Chicago, Ill. S. A. Brothers' name, Otto  
Rabe, 42 years, cabinet-maker by trade;  
Emily Rabe, Hedwig Rabe; Agnes Rabe;  
Bertha Rabe.

"I declare that I own a ranch of twenty-  
four acres in Burbank, Los Angeles,  
seven miles out, now occupied by John  
Adams; also ten shares of Oahu sugar  
stock, about \$90 in Spreckels' Bank;  
about \$1,500 in Security Savings Bank and  
Main Street Savings Bank in Los Ange-  
les. I further state that I, Robert Gus-  
tave Rabe, aged 45, born at Fort Wash-  
ington, Oaski County, Wisconsin, sign  
this of my own free will and accord."

MASTER FINDS DISCREPANCIES.

Wm. J. Forbes, master appointed to ex-  
amine the accounts of J. A. Magoon, ad-  
ministrator of the estate of Hanna, de-  
ceased, yesterday filed his report. The  
estate is one in which the administrator  
never filed an account, although he was  
supposed to guard the interests of the  
estate for more than a dozen years.  
When the heirs a few weeks since peti-  
tioned the Circuit Court to have the ac-  
counts ordered into court, the accounts  
were filed the same afternoon by Ma-  
goon. Later on action was brought by  
the heirs charging Magoon with fraud  
in the disposition of property belonging  
to the estate. The master says:

"The accounts were filed December 11,  
1900, covering a period from December  
1898, to April 1, 1902. The total amount  
of money received by the administrator  
as per Schedule A is \$3,049.10; disburse-  
ments, \$3,043.54, leaving a balance to the  
credit of the estate of \$5.56.

"I have summed up the items and find  
the footings to be correct. On page 3  
of Schedule A, however, there appears to  
be a discrepancy. The item of Febru-  
ary 4, 1899, gives Ah Sing credit for bal-  
ance for August \$2, and on account of  
September \$10, making \$12, but the  
amount is carried out in the schedule as  
\$10, making the schedule \$2 short."

There are thirteen items for which no  
vouchers are filed, all being cash paid to  
and for the account of the heirs, amount-  
ing to \$26.25," and other items, including  
administrator's commission of \$243.40,  
making a total of \$311.20, for which no  
vouchers are filed. The master, in a  
foot note, further says:

"On the will being admitted to probate  
and the appointment of the adminis-  
trator, the Court ordered the adminis-  
trator to file an inventory of the estate  
and to publish notice to creditors. An  
inventory was filed June 15, 1897, but I  
cannot find that any notice to creditors  
was published and no bill for printing  
such appears among the vouchers of  
Schedule B of these accounts."

PLAINTIFF'S CLAIM IS STALE.

Mary H. Atcherly, Alice K. Spencer,  
Rebecca Kinimaka and M. Percival Ki-  
nimaka, the two last being minors, have  
filed a demurrer to the amended bill of  
the Kapioian Estate, Limited, in the  
suit brought by the corporation. The  
defendants allege that the plaintiff does  
not state a cause of action which ought  
to entitle it to any such discovery or re-  
lief as is sought and prayed for. Plain-  
tiff's claim is stale and its remedy is  
barred by length of time, to wit, forty-  
two years, or more than four times the  
period of the statute of limitations for  
real actions. The defendants therefore  
demand the judgment of the court as to  
whether they shall be compelled to  
make any further answer, and pray to be  
hence dismissed with their reason-  
able costs.

HONOLULU INVESTMENT SUIT.

Returns on Circuit Court summons in  
the action to quiet title brought by the  
Honolulu Investment Company against  
Helen Rowland were made yesterday.  
Summons were served on Helen Row-  
land, Ching Hung, J. Rodrigues, Domiao  
de Medeiros, Emma M. Nakuna, John  
Wright, Lydia Rowland Wright, W. O.  
Smith, David Dayton, Freda Klemme,  
J. S. Emerson and Thos. Metcalf. Fran-  
cisco Jose and A. J. Faris cannot be  
found within the jurisdiction of the  
court, and according to the best infor-  
mation to me given, they have departed  
for the States. Defendants Antonio dos  
Santos and Yee Chew Fan, according to  
the information given by their respect-  
ive relatives, are dead. The suit  
brought to quiet title to property at Ka-  
waiaha.

WANTS HIS OWN LAND.

Kwong Mow of this City has brought  
suit against Killiona, to have process of  
court issue against the latter to vacate  
premises at Punaluu, Koolauloa, Oahu,  
which are claimed by the plaintiff. The  
plaintiff says he has enjoyed possession  
of the estate for years, and for the un-  
lawful use, occupation and detention  
thereof by the defendant Kwong Mow  
claims by way of damages the sum of  
\$1,500.

COURT NOTES.

Arguments, claims, counter claims and  
accounts galore have figured in the set-  
tlement of the estate of J. Lazarus. Yes-  
terday the Supreme Court made an oral  
order under which J. S. Walker, the ad-  
ministrator, is to pay over to the legat-  
tees the sum of \$84, the balance remain-  
ing in his hands. Walker made counter  
claims against certain of the legatees,  
and Walker is ordered to recover such  
amounts from the portions belonging to  
the said legatees, less interest.

M. A. Gonsalves was yesterday ap-  
pointed administrator under \$500 bond of  
the estate of A. C. Pestana.

Plaintiff in the assumpsit action of  
Tong Chong Chan vs. New Zealand In-  
surance Company, a foreign corporation,  
has filed a joinder in demand.

The following cases were heard before  
the First Circuit Judge yesterday in  
chambers: Estate Joseph Lazarus, es-  
tate F. F. Madeira, guardian David  
Manuel, in re B. P. Bishop Museum trust,  
estate A. C. Pestana, estate John Phil-  
lips, guardian Kan Yee, a minor, es-  
tate Robert Gustave Rabe, motion; proof  
of will, continued to February 1; appoint-  
ment of guardian, January 23; master's  
report, January 23; petition for adminis-  
tration, annual accounts of admr., resig-  
nation of guardian, appointment of new  
guardian and master's report; probate of  
will.

Henry Smith is appointed master to  
examine the accounts of Joseph Gilman,  
administrator of the estate of John Phil-  
lips.

This morning at 10 o'clock the guardian-  
ship matter of K. Keolokalani, a minor,  
will be heard, and the case of Keave vs.  
See Hop, at 2 p. m.

Defendant Robert Catton, by his attor-  
neys, Holmes & Stanley, and Kinney,  
Ballou & McClanahan has filed a mo-  
tion in the case of George W. Macfar-  
lane vs. Robert Catton, that Wm. Lish-  
burn, the signer and affiant of the bill  
of complaint as agent of the plaintiff  
Macfarlane, be required to produce be-  
fore the court his authority as such  
agent to institute these proceedings and  
to make a jurat to said bill of complaint  
on behalf of said George W. Macfar-  
lane.

Judge Kalua, of the Maui Circuit, will  
sit in the Ewa courtroom of the Judi-  
ciary building to hear matters pertain-  
ing to his circuit. This is done upon  
stipulation of the Judge and attorneys.  
One of the principal cases will be that of  
the Hawaiki Commercial & Sugar Co.,  
water rights and the lease to the Wailu-  
ku Sugar Company, which has just ex-  
pired. The case involves over \$100,000.

UNITED STATES COURT.

W. B. Cousins, a native of England,  
was admitted to citizenship yesterday.  
Bond in the brigantine Consuelo case  
was filed yesterday in the United States  
Circuit Court by E. A. Frazier, repre-  
sentative of the vessel. The bond is for  
\$5,000 for release of the vessel and \$500  
for costs. Robertson & Wilder, attor-  
neys for libellee.

Judge Estee adjourned his court yes-  
terday until February. He leaves for  
Hilo today with the members of the  
United States District Court to hold a  
session there.

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Lead Traps, assorted sizes.  
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sizes.

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Pig Lead, Calking Lead; Solder, in  
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\$250 a lot.

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